HON'BLE SMT. JUSTICE T. MEENA KUMARI

WRIT PETITION No.32642 of 1997

Date 6-11-2007

Between:
N. Hariprasad Babu, S/o. Venkaiah.

……PETITIONER

AND

The A.P. State Agro Industries Development Corporation Ltd., and others.

…..RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI

W.P. No. 32642 of 1997

-

O R D E R:

This writ petition is filed against the order passed by the 1st respondent in Proceedings No. Pers:EPF:1379 dated 17.11.1997 terminating the services of the petitioner with effect from 19.11.1997 after noon.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent – Corporation and perused the material available on record.

The case of the petitioner is that he was appointed as Marketing Officer (Junior Manager) in the 1st respondent Corporation through the written test dated 23.8.1987 and interview dated 24.8.1987 vide proceedings dated 2.4.1988 and he continued as such upto the date of termination on 17.11.1997. While so, the respondent – Corporation terminated the services of the petitioner on the ground that the Board of Directors have decided to restructure the strength of the Corporation considering various aspects such as actual staff requirement, productivity, profitability and service to the farming community and as a sequel the employees of the closed down activities are to be terminated following the due procedure. Accordingly, in view of the said resolution, the services of the petitioner were terminated by impugned order dated 17.11.1997. The grievance of the petitioner is that such action of the respondents in terminating his services is illegal and arbitrary.

It is contended by the learned counsel for the petitioner

that even though the petitioner was asked to opt for voluntary retirement, he was not eligible to opt the same for the reason that he did not complete 10 years of service and was short of six months. It is also contended that as the petitioner was short of six months and as long as he did not opt for voluntary retirement, he shall be continued as an employee of the Corporation for the reason that he was appointed as an employee of the respondent – Corporation through due process of selection but not as the employee of the Unit which has been closed down.

The contention of the learned counsel for the respondent – Corporation is that as the petitioner was working in Agro Chemicals and in view of the closure of Agro Chemicals unit, the employees working in the said Unit were asked to opt for voluntary retirement but the petitioner did not opt for voluntary retirement in spite of several opportunities extended to him and therefore the order of termination was passed against him.

This Court is not in agreement with the contention of the learned counsel for the respondent – Corporation. The petitioner, as rightly pointed out by the learned counsel for the petitioner, was appointed as Marketing Officer vide proceedings dated 2.4.1988 and said the proceedings clearly indicate that subsequent to written test and interview the petitioner has been appointed to the post of Marketing Officer in the respondent – Corporation but not in Agro Chemicals, which is a Unit of the respondent – Corporation. It is also stated in the affidavit filed in support of the writ petition that the services of the petitioner have been regularized and his probation was declared and he was taken into service on permanent basis. It is only subsequent to his appointment that the respondent – Corporation established Agro Chemicals and he was posted to work in the said Unit. Therefore, simply because the Corporation has subsequently decided to close down the said Unit, the respondents cannot terminate the services of the petitioner, who has been appointed as

Marketing Officer of the respondent-Corporation through due process of selection and whose probation was declared, on the ground that he is working in Agro Chemicals and the said Unit was closed down. It is not the case of the respondent – Corporation that the entire Corporation has been wound up or closed down. Even according to the learned counsel for the petitioner, still several branches of the Corporation are functioning.

In view of the fact that the petitioner has been recruited through due procedure of written test and interview for the post of Marketing Officer in the respondent-Corporation, he will be deemed to be an employee of the respondent – Corporation and merely because some Units have been closed down and the petitioner has been deputed to work in those units, the services of the petitioner cannot be terminated on that ground and therefore the impugned order of termination is held to be illegal and arbitrary.

Accordingly, the impugned order dated 17.11.1997 is set aside and the writ petition is allowed.

_____

T. MEENA KUMARI, J.

Date:6.11.2007.

pnb